

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

[1] REGINALD DUVAL,)
)
)
 Plaintiff,)
)
vs.) **Case No. 16-CV- 560 -D**
)
[1] FARMERS INSURANCE COMPANY,)
INC.) **Removed from: Comanche County**
)
)
 Defendant.) **Case No. CJ-16-246**

NOTICE OF REMOVAL

COMES NOW the Defendant, Farmers Insurance Company, Inc. (“Farmers”), and hereby remove this action from the District Court of Comanche County, Oklahoma, to the United States District Court for the Western District of Oklahoma pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. In support of this Notice of Removal, Defendant states as follows:

I. BACKGROUND OF CASE AND FOUNDATION FOR REMOVAL.

1. On April 29, 2016, Plaintiff filed his Petition in the District Court of Comanche County, Oklahoma, captioned: *Reginald Duval vs. Farmers Insurance Company, Inc.*, Case No. CJ-2016-246.
2. The Petition and Summons were served upon Defendant, Farmers through the Insurance Commissioner of the State of Oklahoma on May 6, 2016. Pursuant to LCvR81.2(a), copies of the Petition, Summons, and Comanche County Docket Sheet are attached hereto as Exhibits 1, 2, and 3. No other pleadings, process, or orders have been served on the Defendant.

3. Pursuant to LCvR3.1, this Notice of Removal is accompanied by a Civil Cover Sheet, Form JS-44, attached hereto as Exhibit 4.

4. This Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1332. Further, this matter is one that may be removed to this Court pursuant to 28 U.S.C. § 1441 because it is a civil action that is among citizens of different states and in which the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

5. Venue is proper in this Court because this action is pending in the District Court of Comanche County, Oklahoma. *See* 28 U.S.C. § 1441(a)

II. COMPLETE DIVERSITY OF CITIZENSHIP EXISTS.

6. There is a complete diversity of citizenship among the parties:

(a) Plaintiff. Reginald Duval is a resident of Comanche County, Oklahoma. (*See* Petition, ¶1, Exh. 1).

(b) Defendant. Farmers Insurance Company, Inc. is a Kansas corporation, with its principal place of business located in Olathe, Kansas. Thus, Defendant is not a citizen of Oklahoma and is diverse from the Plaintiff.

III. THE AMOUNT IN CONTROVERSY EXCEEDS THE AMOUNT REQUIRED FOR DIVERSITY JURISDICTION.

7. Plaintiff's Petition alleges that on or about October 21, 2015, his residence was destroyed by fire. (*See* Petition, ¶5, Exh. 1).

8. Plaintiff further alleges that his residence was insured by a policy of insurance in effect at the time of the fire; that he submitted a claim for his property loss to Farmers; that Farmers did not pay under the terms of the policy, constituting breach of contract; and further, that Farmers wrongfully and unreasonably denied Plaintiff's claim and failed to properly investigate the claim in bad faith. (*See Petition, ¶¶ 6-9, Exh. 1*).

9. Plaintiff asserts that as a result of Defendant's acts or omissions, he will seek actual damages in an amount in excess of the amount required for diversity jurisdiction pursuant to 28 U.S.C. § 1332, as well as exemplary damages. (*See Petition, ad damnum clauses, Exh. 1*).

10. Diversity jurisdiction requires the removing party to demonstrate the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. *See 28 U.S.C. § 1332.* Here, the amount in controversy will exceed \$75,000.00, exclusive of interest and costs.

11. Defendant denies the allegations in Plaintiff's Petition. Taking those allegations on their face as true, however, as this Court must do for the purpose of determining the propriety of removal, it is clear that Plaintiff's claims, as evidenced by the Petition, demonstrate an amount in controversy in excess of \$75,000.00. By filing this Notice of Removal, Defendant does not waive any defenses that may be available to it, nor does it waive any defenses related to proper service of the Petition.

IV. CONCLUSION.

12. This Notice of Removal is timely filed, pursuant to 28 U.S.C. § 1446(b).

13. Defendant certifies it will promptly give written notice of the filing of this Notice of Removal to all known counsel of record, and will likewise file a copy of this Notice of Removal with the District Court of Comanche County, Oklahoma.

14. Given the complete diversity of the parties and an amount in controversy in excess of \$75,000.00, this Court has jurisdiction over this cause of action and the claims asserted pursuant to 28 U.S.C. § 1332, and this action is properly removable pursuant to 28 U.S.C. § 1441.

WHEREFORE the Defendant, Farmers Insurance Company, Inc. hereby removes this matter from the District Court of Comanche County, Oklahoma to the United States District Court for the Western District of Oklahoma.

S/ *F. Thomas Cordell*

F. Thomas Cordell, OBA #1912

FRAILEY, CHAFFIN, CORDELL, PERRYMAN & STERKEL LLP

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CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of May, 2016, I filed the above and foregoing document with the Clerk of Court and served the attached document by Email on the following:

Michael D. Lewis
LAW OFFICES OF MICHAEL D. LEWIS
Email: mdl.lewislaw@gmail.com

s/ F. Thomas Cordell
F. Thomas Cordell

I further certify that a copy of the above and foregoing document was attached to a Notice of Filing Notice of Removal and was mailed for filing, via U.S. Mail, on the 25th day of May, 2016 to:

Robert Morales, Court Clerk
COMANCHE COUNTY
315 S.W. 5th St.
Lawton, Oklahoma 73501

s/ F. Thomas Cordell
F. Thomas Cordell